

**District Court of the State of Oklahoma
Fourteenth Judicial District
Tulsa County**



Rules of the District Court
Tulsa County
February 2003

PRESIDING JUDGE

David L. Peterson

DISTRICT JUDGES

Office No. 1	Ronald L. Shaffer
Office No. 2	Jesse Harris
Office No. 3	Jane P. Wiseman
Office No. 4	David L. Peterson
Office No. 5	Jefferson Sellers
Office No. 6	Sharron M. Bubenik
Office No. 7	Thomas Gillert
Office No. 8	P. Thomas Thornbrugh
Office No. 9	Linda G. Morrissey
Office No. 10	Gregory K. Frizzell
Office No. 11	Rebecca Nightingale
Office No. 12	Doris Fransein
Office No. 13	Deborah Shallcross
Office No. 14	J. Michael Gasset

ASSOCIATE DISTRICT JUDGE

Caroline Wall

SPECIAL JUDGES

Terry Bitting
Daman Cantrell
Carlos Chappelle
Darlene Crutchfield
Kyle Haskins
Russell Hass
Edward J. Hicks
Charles Hogshead
Allen Klein
Gordon McAllister
Millie Otey
Robert Perugino
Carlene Clancy Smith
Clifford J. Smith
Sarah Day Smith

JUVENILE COURT REFEREE

Carl Funderburk

FAMILY COURT REFEREE

Mark Barcus

COURT ADMINISTRATOR

Ann Domin

**IN THE DISTRICT COURT IN AND FOR
TULSA COUNTY, STATE OF OKLAHOMA**

ADMINISTRATIVE ORDER

CV-03-9

The following rules are hereby adopted as Rules for the District Court, Tulsa County, Oklahoma.

DATED THIS 6th DAY OF February, 2003.

David L. Peterson

DAVID L. PETERSON
Presiding Judge
14th Judicial District
Tulsa-Pawnee Counties

TULSA COUNTY COURT RULES
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RULE 1. Official Court Rules - Adoption, Amendments, Supplements, Repeal

These Rules of the District Court may be amended by a majority vote of the District and Associate District Judges of Tulsa County, but before any amendment shall be in force, it shall be posted in the Court Clerk’s office for at least 10 calendar days and notice of the amendment shall be published daily in a Tulsa newspaper of general circulation for at least 10 calendar days.

Orders Supplementing - With the authorization of a majority of the District and Associate District Judges of Tulsa County, the Presiding Judge may enter orders consistent with these rules for the general conduct of business.

Rules Repealed - All previous rules not re-adopted herein are repealed effective February 6, 2003.

These District Court Rules are adopted for Tulsa County and ordered published in pamphlet form certified by the Presiding Judge. The published pamphlet shall be available from the Court Administrator.

RULE 2. Divisions, Dockets, and Assignments of the District Court

There shall be the following divisions and dockets of the District Court of Tulsa County:

DIVISIONS:

CIVIL:

CRIMINAL:

DOCKETS:

- Civil (CJ: over \$10,000)
- Civil, Special Judges (CS, under \$10,000)
- Small Claims (SC, under \$4,500)
- Civil, Miscellaneous (CV)

- Criminal, Felony (CF)
- Criminal, Misdemeanor (CM)
- Criminal, Traffic Citations (TR)
- Criminal, Habeas Corpus, New Cases (WH)
- Criminal, Property (CP)
- Criminal, Miscellaneous (MI)
- Traffic, Jail Cases (TRI)
- No File/Not Filed (NF)
- Search Warrant (SW)
- Okla. Dept of Wildlife Proceeding (WL)

FAMILY: Divorce (FD)
Uniform Reciprocal (FD)
Child Custody, including Habeas Corpus (FD)
Separate Maintenance (FD)
Annulments (FD)
Paternity (FD)
Protective Orders (PO)
Division processes several statutory licensing functions

JUVENILE: Delinquency (JDL)
Child in Need of Supervision (JS)
Deprived (JD)
Child in Need of Treatment (JT)
Shelter/Protective Custody (DH)
Mental Health (DHT)
Miscellaneous (JMI)

PROBATE: Probate, Wills and Administrations (PB)
Probate, Trust (PT)
Conservatorships (PCON)
Probate, Judicial Determination (PB)
Probate, Guardianship (PG)
Probate, Mental Health (MH)
Artificial Insemination (AI)
Adoption hearings (FA)
Protective Services for the Elderly (PSE)

The assignments of the District and Associate District Judges are:

DIVISION:	ASSIGNMENT:
CIVIL	Sharron Bubenik Doris Fransein Gregory Frizzell Michael Gasset David Peterson Ronald Shaffer Thomas Thornbrugh Jane Wiseman
CRIMINAL	Thomas Gillert Jesse Harris Rebecca Nightingale Jefferson D. Sellers Thomas Thornbrugh Caroline Wall

FAMILY Linda Morrissey (Chief Judge)

JUVENILE Deborah Shallcross (Chief Judge)

PROBATE & ADOPTIONS Linda Morrissey (Chief Judge)

The assignments of Special Judges:

- Traffic Court: Rm. 173
- Civil: Asset Hearings, Defaults, Uncontested Orders and Judgments, and Garnishments: Rm. 507
- Small Claims: Rm. 112
- Probate: Rm. 111
- Family: Rms. 348, 349, 378 & 379
- Criminal: Rms. 124, 329, 343, 344 & 347
Arraignments, preliminary hearings, misdemeanor dockets, magistrates in criminal felony matters.
- Protective Orders: Rm. 158
- Juvenile: Juvenile Detention Center, 315 S. Gilcrease Museum Rd.

Each Special Judge may also be assigned other matters by the Presiding Judge.

RULE 3. Habeas Corpus Actions

Habeas Corpus Actions shall be filed in the following divisions:

Family Division - Those actions seeking custody of minor children.

1a. If there is an existing Tulsa County Family Division case, the application shall be filed in that case and shall be styled the same as the existing case.

1b. If there is no existing Tulsa County Family Division case, the Petition for Writ of Habeas Corpus shall be filed in the Family Division with a new case number. No Petition shall be filed without a certified copy of the existing custody order. The Judge shall be assigned by computer at the time of filing. The Petition shall be filed without fee.

2. Writs may be served by licensed process servers or the Tulsa County Sheriff's Office unless the minor child or children are to be picked up. If the Judge orders the minor child or children to be picked up, then service must be by Tulsa County Sheriff's department.

3. Counsel or the applicant shall deliver a copy of the application or Petition to the assigned Judge to have a hearing scheduled without delay.

4. Counsel or the applicant shall notify all parties of the specific hearing date.

5. Applications for a writ to secure the presence of a prisoner at hearings in a family relations case shall follow the procedure set out in this Rule below for the Civil Division.

Criminal Division - Those actions seeking release from custody of persons held in the Tulsa City-County Jail System or in the custody of law enforcement officers.

1a. If there is an existing Tulsa County criminal case, the application shall be filed in that case and shall be styled the same as the criminal case at issue.

1b. If there is no existing Tulsa County criminal case, the application shall be filed in the Criminal Division under the case designation WH. The Judge shall be assigned by computer at the time of filing. This application shall be filed without fee and a copy provided to the District Attorney.

2a. Counsel or the applicant for a criminal writ must serve a copy of the application on the custodian of the prisoner, the Sheriff of Tulsa County and the District Attorney of Tulsa County.

2b. If the custodian is a warden/superintendent of a state correctional facility, a copy must also be mailed to the General Counsel of the Department of Corrections.

3. Counsel or the applicant shall deliver a copy of the application to the assigned judge, have the application set on the docket and scheduled for a hearing.

4. Counsel or the applicant shall notify all parties of the specific hearing date.

5. No writ shall issue without notice and a hearing, unless such is waived by the custodian and the District Attorney. The counsel for the custodian may respond to the application by written motion and brief with a request for the court to rule on the application in accordance with Rule 4(h) of the Oklahoma Rules for District Courts.

6. The hearing on the application will be scheduled not less than 10 working days prior to the date of the hearing at which the presence of the prisoner is requested, unless the prisoner is in the Tulsa City-County Jail System or does not request attendance at the hearing, in which event, the Court will consider the application without delay.

7. Reference 22 O.S. § 1151.

Juvenile Division - Those actions seeking review or Habeas Corpus relief concerning custodial status assumed by state agencies, including Oklahoma Department of Human Services, over minors within the purview of the juvenile court.

Civil Division - Habeas Corpus Actions, not otherwise provided for in this rule.

1a. Counsel or the applicant for a writ to secure the presence of a prisoner at hearings in a civil case must serve a copy of the application by mail on the custodian of the prisoner.

1b. If the custodian is the Sheriff of Tulsa County, a copy must also be served on the District Attorney of Tulsa County.

1c. If the custodian is a warden/superintendent of a state correctional facility, a copy must also be mailed to the General Counsel of the Department of Corrections.

2. Counsel or the applicant shall deliver a copy of the application to the assigned Judge, have the application set on the docket and scheduled for a hearing, unless a hearing is waived by the Judge.

3. Counsel or the applicant shall notify all parties of the specific hearing date.

4. The application shall be styled the same as the civil case at issue.

5. The hearing on the application will be scheduled not less than 10 working days prior to the date of the hearing at which the presence of the prisoner is requested, unless the prisoner is in the Tulsa City-County Jail System, in which event, the Court may shorten the time.

6. The Court may waive the hearing and rule on the application pursuant to Rule 4(h) of the Supreme Court Rules for District Courts.

7. Reference 12 O.S. \square 397 and Johnson v. Scott, 702 P.2d 56 (Okla. 1985).

RULE 4. Presiding Judge Assignments

The following matters shall be assigned to the Presiding Judge:

1. Petitions and requests for a Grand Jury.
2. The following miscellaneous criminal proceedings (MI):
 - a. Pen register/trap and trace device orders.
 - b. Out-of-state proceedings to compel witnesses' attendance.
 - c. Subpoenas in investigations in which cases have not yet been filed.
 - d. Appeals - applications to proceed pro se pursuant to Court of Criminal Appeals Rule 1.16 when the conviction occurred in a county other than Tulsa County. (If the conviction occurred in Tulsa County, the request should be filed in the existing criminal case.)
 - e. Trial de novo appeals from municipal courts not of record.
 - f. Petitions for expungement where no District Court criminal case number exists (otherwise expungements are to be filed in existing cases).
3. License hearings
4. Recusal hearings pursuant to Rule 15 of the Supreme Court Rules for the District Courts, 12 O.S. Ch. 2, App. 1. Parties must comply with the provisions of this Rule before the Presiding Judge will consider a recusal request.

RULE 5. Presiding Judge

A. The Presiding Judge is the Chief Administrative Officer of the Courts. All statutory or case law references to Chief Judge shall be synonymous with Presiding Judge unless indicated otherwise by these rules, i.e., Chief Judge Family, Chief Judge Criminal, Chief Judge Civil, Chief Judge Juvenile.

B. Presiding Judge-Elect - The District and Associate District Judges of the District shall elect a Presiding Judge-Elect in January 2003 and thereafter in January of even-numbered years.

C. Presiding Judge - At the end of the term of the Presiding Judge, the Presiding Judge-Elect shall automatically become the Presiding Judge for a two-year term commencing in January of even-numbered years.

D. If the office of Presiding Judge becomes vacant before the expiration of the regular two-year term, the Presiding Judge-Elect shall become the Presiding Judge for the balance of the remaining term and shall then automatically become Presiding Judge as set forth in □ C above.

E. If the office of Presiding Judge-Elect becomes vacant before the expiration of the regular two-year term, the District and Associate District Judges of the District shall elect a new Presiding Judge-Elect for the balance of the two-year term.

F. Acting Presiding Judge - In the absence of the Presiding Judge, the Presiding Judge-Elect shall serve as Acting Presiding Judge with the full authority of the Presiding Judge. If the Presiding Judge-Elect is also absent, the Presiding Judge shall designate an Acting Presiding Judge to act with the full authority of the Presiding Judge.

RULE 6. Chief Judges

There shall be a Chief Judge in each of the following Court divisions: Civil, Criminal, Family, Probate and Juvenile. If there is more than one District/Associate Judge in any division, the Chief Judge shall be elected by a majority vote of the District/Associate Judges in that division, to take office annually on January 1.

RULE 7. Jury Terms

The Presiding Judge shall be in charge of the Jury Panel and shall excuse and discharge those jurors not engaged when their services are no longer required.

Jurors shall be summoned to appear for Petit Jury terms of one week duration pursuant to the annual schedule established and made public by the Presiding Judge.

Jurors may be summoned on additional weeks due to exigent circumstances as determined by the Presiding Judge.

RULE 8. Use of Courtrooms

The Courtrooms shall be used only for regular Court business unless permission for other use is first obtained from the Judge whose Courtroom is requested.

RULE 9. Courtroom Conduct

Counsel shall assist the Court in maintaining order and decorum by advising their clients and witnesses in advance of proper Courtroom behavior.

Counsel's conduct in the Courtroom as a member of this Bar demonstrates counsel's respect for the administration of justice. The following is requested of counsel for proper Courtroom conduct:

1. Punctuality and brevity are virtues appreciated by Judges and Jurors.
2. Arguments shall be addressed to the Court and not to opposing counsel.
3. Stand when talking to the Court or when addressed by the Court.
4. When examining a witness, stand where the Court, witness and court reporter can hear you.
5. Do not approach the bench unless you obtain permission or are invited to do so.
6. Do not sit on the counsel tables.
7. Smoking, eating, drinking beverages and reading newspapers are not permitted in the Courtroom.
8. Do not take files, pleadings or papers from the Minute Clerk's desk or exhibits from the Court Reporter unless you obtain permission to do so.
9. Pass papers and documents intended for the Court to the Minute Clerk or Court Reporter who will hand them up to the Court.
10. In order for the Minute Clerks to do their work, do not use the Clerk's desk, phone or office materials without permission.
11. Advise your clients of the ethical impropriety of discussing pending matters with a Judge.

12. Do not ask to be excused when your matter is completed. Please depart quietly. Do not hold conferences in the Courtroom with clients when Court is in session.

13. Cellular phones, pagers or other electronic devices may not be activated in the courtroom. Under no circumstances will cellular phones be permitted in the jury deliberation room by jurors during their deliberations.

RULE 10. Courtroom Attire

Attorneys, as officers of the Court, should appear in Court in attire appropriate to practitioners of this honored profession. Men shall wear coats and ties and women shall wear suitable attire for all Court appearances.

RULE 11. Photographing, Recording, Broadcasting and Televising Judicial Proceedings

In conformity with the practice that has prevailed in the District Courts, the following rules governing the taking of photographs, the recording, broadcasting and televising of judicial proceedings in the Courthouse of Tulsa County, Oklahoma, are hereby promulgated:

1. Except as expressly permitted by the individual Judge, the use of cameras, television and other recording or broadcasting equipment is prohibited:

a. Inside a courtroom

b. In the immediate vicinity of a courtroom, including the hallways, with the exception of that hallway between the public elevators.

2. The use of cameras, television, recording and broadcasting equipment is not prohibited in other areas of the Courthouse, provided that media representatives exercise diligence to insure that such equipment and its use do not interfere with the session of any proceeding being covered or with any proceeding in a courtroom adjacent to the proceeding being covered.

3. Notwithstanding these rules, the Presiding Judge or an individual Judge may promulgate specific rules governing the use of cameras, television, recording and broadcasting equipment to remain in force and effect for any specific proceeding or event.

The purpose of this directive is to insure that courtroom proceedings are conducted at all times with dignity and in a manner calculated to avoid the disruption of order and decorum which the judicial process demands.

It should be emphasized that the representatives of the news media are expected to conduct themselves at all times in a professional manner consistent with the spirit and intent of this directive. In order to insure such conduct, if conduct of the news media which is violative of the foregoing rules is brought to the attention of any Judge, the offending person shall be notified immediately to cease and desist such activity. If the offending party refuses to comply with the order, then the Judge may immediately command his or her personnel to take affirmative action to end such activity, including the seizure of the equipment of such person. Any offender may be dealt with for contempt of Court.

This directive does not prohibit any Judge from giving photographic or broadcasting interviews with any television or radio station or to be photographed in any manner in chambers, and any Judge may permit broadcasting, televising, recording or photographing of investigative, ceremonial or naturalization proceedings or any moot court trial use for educational or scientific purposes.

RULE 12. Courthouse Closing

In the event the County Commissioners either close or do not open the Courthouse due to inclement weather or some emergency, all cases set for hearing shall automatically be passed to the next legal week day that the Courthouse is open.

RULE 13. Removal of Court Files

The following persons may remove Court files from the Court Clerk's office for official use with a written Order or Receipt Form from the Judge or Court Clerk: the Court Clerk or the Clerk's Deputies, Bailiffs, Judges, Attorneys, Court Reporters, Court Administrator and Abstractors.

Criminal files may be checked out only to the Court Clerk, Deputy Court Clerks, Bailiffs, Judges, the Court Administrator, and Court Reporters.

A signed receipt must be submitted and the check-out period may not exceed 48 hours.

All persons authorized to remove Court files from the Court Clerk's office shall provide on the receipt: Court file number, date, and name of the authorized person checking out the file, his or her address, phone number and bar number, if applicable.

Failure to return a court file may subject the offending party to the imposition of sanctions.

RULE 14. Removal of Exhibits

No exhibit offered or admitted in evidence shall be removed from the courtroom or from the custody of the Court Clerk or Court Reporter, as the case may be, without permission of the Judge, and a written dated receipt shall be given by the person receiving it.

Only two-dimensional exhibits no larger than 8 1/2 inches by 14 inches, videotapes or audiotapes admitted into evidence will be retained by the Court Reporter following the trial. Counsel shall substitute a copy meeting these size restrictions of any oversized exhibit. Other exhibits, including oversized exhibits, shall be withdrawn from the record at the conclusion of the trial and retained by the party or counsel presenting them at trial.

In criminal cases, parties/counsel shall comply with the Rules of the Court of Criminal Appeals.

RULE 15. Bankruptcy Notice

Any party filing bankruptcy or receiving notice of another party in his case filing bankruptcy shall file immediate written notice in the Tulsa County District Court case of the bankruptcy filing.

After a Notice of Bankruptcy has been given, no request for relief can or will be addressed unless the moving party (1) notifies the District Court that the Bankruptcy Court has granted relief from the stay or the stay is no longer in effect and (2) attaches a copy of the pertinent Order.

RULE 16. Law Library Rules

The Rules for the Tulsa County Law Library adopted by its Board of Trustees are adopted as if set forth in full. Copies of the current Rules are available from the Law Librarian.

RULE 17. Private Process Servers

Procedure to Obtain a License:

1. Obtain an application form from the Court Clerk's office and obtain a hearing date from the clerk.
2. Return the completed application to the Court Clerk's office with the following:

a. A performance bond payable to the State of Oklahoma in the amount of \$5,000.00. The bond must show that it is good for one year (or three years for statewide renewals), and must be effective on the date of the hearing.

b. Two recent passport-size pictures

c. The initial fee for Tulsa County licenses is \$150, or \$265 for statewide licenses.

d. If renewing the license, the fee is \$120 for Tulsa County licenses, or \$130 for three year renewal of statewide licenses. Renewals can only be accepted if the renewal application is timely filed and the previous license has not expired.

e. Cash or certified checks will be accepted, but personal checks cannot be accepted.

3. Hearings will be held before the Presiding Judge on Tuesday mornings at 9:00 a.m. The Family/License Division of the District Court Clerk's Office can be contacted if any questions arise concerning the hearing date.

4. To insure the hearing date, the application, fee, bond and pictures must be on file in the Court Clerk's Office no later than five working days (excluding Saturdays, Sundays and Holidays) before the hearing date, to allow for posting and mailing notices.

Rules Governing Private Process Servers:

1. A licensed process server is authorized to serve process issued by Tulsa County in civil cases anywhere within the State of Oklahoma. A licensed process server may not serve papers originating in any other county unless the process server is also licensed in that county or has met the requirements for registering the license in that county as provided by law.

2. Process servers are not authorized to serve or execute warrants, executions, writs, attachments, or any other process for the taking or locking up of property or causing an arrest.

3. A licensed process server will not represent himself or herself as a Police Officer, Deputy Sheriff, Deputy Court Clerk or any other court official.

4. Process servers should always keep in mind that they are representatives of the Courts and should never serve or attempt to serve process while under the influence of alcohol or drugs. A process server will never carry any type of gun or weapon

unless he or she has an officer's commission or has been certified as required by law to carry a concealed weapon.

5. When serving a person, process servers must show their licenses and advise the person they are process servers. Licenses shall be carried at all times while on duty. The use of any badge is prohibited.

6. If any questions arise concerning the process server's license or activities, refer to § 158.1 of Title 12 of the Oklahoma Statutes, and/or consult an attorney for legal advice.

7. Upon an annual filing of a certified copy of a license issued pursuant to the provisions of this section and payment of a filing fee of ten (10) dollars to the Court Clerk of any county within this state, a licensed process server may serve process in that county for the district court having jurisdiction in that county.

Renewals:

An application for a renewal license for each succeeding year shall be processed the same as for a new application.

Applications for renewals not timely processed before the expiration date of the previous license shall result in the licensee's name being removed from the list of authorized process servers until the renewal is approved.

List of Authorized Servers:

The Court Clerk shall keep posted at all times in the Clerk's office the list of licensed process servers. Upon the cancellation of a licensee's bond, the licensee's name shall be removed from the list and the licensee notified by the Court Clerk by certified mail. If a licensee does not make a timely application for renewal or if the license is revoked, the Court Clerk shall remove the licensee's name from the list.

Designation of Process Server

Any person using a licensed process server shall designate on the face of the summons or order the name and license number(s) of the process server or servers selected from the Court Clerk's approved list and shall sign the designation. No separate judicial appointment or approval is necessary under this procedure.

More than one process server may be designated as long as names and license numbers are specified.

The name of the process server making service shall appear legibly on the return of service.

CIVIL RULES

RULE CV 1. Assignment of Cases

1. Initial Assignment of Trial Division

Assignment of civil cases shall be made by random computer function except in those cases required by statute or court rule to be assigned to specific judges or divisions of the court.

Every case shall continue to be handled by the assigned judge, ex: Temporary Order to Final Order or Judgment.

Attorneys must indicate the judge assignment next to the case number on all subsequent filings in the case, for example, CJ-95-1-Shellcross.

2. Refiling of Cases Dismissed Without Prejudice

Any case previously assigned to a division of the court and thereafter dismissed without prejudice, if refiled, shall be assigned by the Court Clerk at the time of refile or by the Presiding Judge, if reassigned after filing, to the same Judge in the division of the Court in which it was pending at the time it was dismissed.

3. Record of Assignments

The Court Clerk shall keep a separate record of all case assignments and show the name of the assigned Judge on the court file, the appearance docket and computer records. On the day following the filing of the case, the Clerk shall provide a copy of case assignments to each Judge.

RULE CV 2. Transfers and Reassignments

a. Any case which requires reassignment to the Civil Division, whether within the Civil Division or from outside the Civil Division, including consolidations, recusals or disqualifications, shall be transferred by the assigned Judge to the Presiding Judge. The Presiding Judge shall reassign the case to the next available Judge on the transfer list maintained by the Presiding Judge as provided below. Except as provided in (d.) below, a Judge shall be assigned one case for each case transferred by that Judge.

b. The Presiding Judge shall maintain a transfer list of judges. When a case is transferred, the transferring Judge's name shall be added to the list; when a case is reassigned, the name of the receiving Judge shall be removed from the list.

c. If the transferring Judge's name is the only name on the transfer list, the Presiding Judge shall assign a number to each of the remaining Civil District Judges and shall then draw one of these numbers randomly to whom the case shall then be assigned. The newly assigned Judge shall then transfer by transfer order a comparable case on his/her docket to the transferring Judge and notify counsel in the comparable case.

- d. The above provisions shall not apply to:
1. Transfers made pursuant to 12 O.S. § 83
 2. Refiling of cases as stated in Rule CV 1(2) above
 3. Cases transferred to Special Judges
 4. Cases consolidated only for discovery purposes
 5. Cases transferred only for trial where both transferring and receiving judges agree that this rule shall not apply.

e. A separate record of all transfers and reassignments shall be furnished to the Court Clerk who shall show the name of the reassigned Judge on the court file, the appearance docket and computer records. A copy of each transfer or reassignment shall be furnished to each Judge affected by it and to counsel of record by the transferring Judge.

RULE CV 3. Consolidation

All questions of consolidating two or more cases, or having one Judge of the Court handle two or more cases pending before different judges, shall be presented by motion. All such motions shall be determined by the Judge who would be taking the transferred or consolidated cases, generally the Judge having the earliest case number. If it is ordered that cases be consolidated or assigned to the same Judge, then the other case or cases shall be reassigned by the Presiding Judge to the Judge taking the case or cases, generally the Judge with the earliest case number.

RULE CV 4. Emergency Orders

Applications for Temporary Restraining Orders, Temporary Injunctions, Receivers and Other Emergency Orders

Applications for Temporary Restraining Orders, Temporary Injunctions, Receivers and other Emergency Orders shall be presented only to the Judge to whom the case is assigned (20 O.S. § 95.7) unless otherwise provided by these rules.

If the assigned Judge is absent from the Courthouse, then in that event only, matters may be presented to the Chief Judge of the Civil Division. If the Chief Judge is absent from the Courthouse, then these matters may be presented to the Presiding Judge.

When presenting an application for an order as described in this Rule, counsel shall attach a verified statement setting forth:

1. Whether the opposition is represented by counsel and, if so, by whom, and
2. That the opposition has been given adequate notice of the presentation of the application at a date and time certain.

Counsel requesting temporary restraining orders must also comply with 12 O.S. § 1384.1(B).

RULE CV 5. Reassignment of Injunction Cases

If an issue involving the interpretation, validity, modification or vacation of an injunction (temporary or permanent) or Temporary Restraining Order entered in the case by another Judge arises before the hearing for a permanent injunction, then the Presiding Judge shall reassign the case in the permanent injunction hearing to the Judge who entered the previous order.

RULE CV 6. Forcible Entry and Detainer Actions

Forcible Entry and Detainer actions shall be heard by the Small Claims Court for determination of the right to possession, regardless of the underlying amount in controversy. When the issue of possession is concluded, the case shall be returned to the original Judge for further proceedings, unless the parties agree otherwise in writing.

RULE CV 7. Special Judge Assignments

The following matters shall be presented only to the CS Special Judge(s):

1. Default Judgments (where no motion is required).

Default judgments, not involving publication service, where no motion is required and Civil Warrants pursuant to asset hearings shall be presented to the CS Special Judge's for entry by leaving the court file with the prepared judgment or order with the clerk. Counsel seeking default judgments based on publication service must appear in person with the court file to comply with Rule 16 of the Supreme Court Rules for the District Courts.

The Judge will reject all default judgments submitted with incorrect court files, with files showing pleadings making default inappropriate, or without proof of service.

A Motion or Petition to Vacate Default Judgment shall be presented to the Special Judge who signed the Journal Entry.

2. Friendly Suits

Friendly suits are heard by making arrangements with the clerks in Room 124 or 507.

3. Orders of Restraint under 12 O.S. § 1571 3C.

4. All post-judgment collection matters, including but not limited to Orders to Appear and Answer as to Assets, Garnishment Orders and Applications to Exempt Earnings.

Orders to Appear and Answer as to Assets should be left with a copy of the file-stamped application with the clerk in Room 110. A pro se plaintiff's or plaintiff's attorney's name, address and phone number should be on all orders and applications.

Orders of Restraint under 12 O.S. § 1571 3C, Claims for Exemption from Garnishment and Garnishment Orders shall be presented to the clerk in Room 124 or Room 507.

All files left with pleadings or orders shall be picked up and returned to court records.

5. Applications and affidavits to file in forma pauperis.

a. Plaintiff or petitioner seeking to file in forma pauperis must complete a form to proceed in forma pauperis available from the Court Clerk.

b. An in forma pauperis application by an inmate must include a certificate executed by an authorized officer of the inmate's penal institution stating (1) the amount of money or securities currently on deposit to the inmate's credit in any account (which must be separately identified) and (2) the average monthly deposits made to each account during the previous 6 months.

c. The affidavit to proceed in forma pauperis must be presented to a Civil Special Judge for hearing to determine the party's eligibility to proceed with the case without costs. [In Re Sindham, 498 U.S. 177 (1991); Walters v. Cowley, 902 P.2d 1109 (Okla. Cr. 1995)]

RULE CV 8. Cover Sheets and Bar Association Number

All parties shall furnish a completed Cover Sheet to the Court Clerk when a petition is filed in CJ and CS cases.

If a case is refiled after previous dismissal, this shall be disclosed on the Cover Sheet and to the Court Clerk at the time of refileing.

Attorneys shall include their bar association number, name, address and phone number on all pleadings. This shall also apply to decrees, orders and journal entries which are approved as to form by counsel.

RULE CV 9. Cases Transferred to and from Tulsa County

Actions transferred pursuant to 20 O.S. § 642 shall be accompanied by the appropriate filing fees unless waived by the Court. The plaintiff shall be responsible for advancing the fees unless otherwise directed by the Court.

RULE CV 10. Pleadings Sent by Mail for Filing

If pleadings or other documents are mailed to the Court for filing, the Court Clerk will not return stamped copies unless copies are provided and a self-addressed envelope large enough to accommodate the mailing with sufficient postage attached is enclosed.

RULE CV 11. Service of Pleadings or Process

After summons is issued, the original shall be returned and filed in the case with the Court Clerk. In those cases where the Court has issued contempt or restraining orders, or granted injunctive relief or in other extraordinary proceedings requiring personal notice to the party affected, the original order shall be filed with the Court Clerk after its issuance, and certified copies thereof shall be used for service on the parties.

RULE CV 12. Dismissal for Lack of Service

Under 12 O.S. § 2004 (I) of the Pleading Code, after the Court has examined the court file and docket sheet of a case and determined that more than 180 days have elapsed without service being made on a named defendant, the Court may notify the plaintiff and/or plaintiff's attorney with notice to all parties or counsel of record to file a pleading to show cause why the action should not be dismissed as to that defendant. If good cause is not shown or response is not made, the Court may dismiss the case without prejudice.

RULE CV 13. Frivolous Pleadings

If a pleading is found to be frivolous, the Court may, on its own motion or on the oral or written Motion of the opposing party, tax costs in the case or a portion of the costs up to and including the frivolous pleading, against the party filing it. The Court may make subsequent Orders to insure compliance with the Court's findings.

Prisoners proceeding pro se should familiarize themselves with 12 O.S. § 2003.1 (1995) and 57 O.S. § 566 et seq.

RULE CV 14. Extensions Of Time

All requests for extensions of time must contain the following:

1. The original due date for the response.
2. The amount of additional time requested.
3. The reason for the request.
4. The current status of the case (including when hearings, if any, have been scheduled.)
5. A statement that opposing counsel has been contacted regarding the extension and either consents or objects to the extension.

Requests which do not comply with this rule shall not be considered.

RULE CV 15. Ex Parte Requests to Amend, Supplement or File Out-Of-Time

Counsel wishing to file amended or supplemental pleadings, applications, motions, responses or briefs requiring leave of court or requesting to file out-of-time must advise the Court of:

1. The case's current status AND
2. Whether opposing counsel, having been contacted, objects to the filing.
3. Requests to amend pleadings must also state the nature of the new matter or amendment.

An application without this information will not be considered.

RULE CV 16. Settlement Conferences

The Court will set a case for settlement conference or mediation on joint request of the parties. Joint application forms available from the Judges' minute clerks should be completed and returned to the assigned Judge's minute clerk. The mediation or settlement conference order will be issued by the assigned Judge.

All court-ordered settlement conferences and mediations will be arranged and administered through Early Settlement, 200 Civic Center, Room 601-L, Tulsa, Oklahoma 74103.

RULE CV 17. Motions

- A. All motions in civil cases must comply with Rule 4 of the Supreme Court Rules for the District Courts (Okla. Stat., Title 12, Ch. 2 App.)
- B. Counsel shall deliver a copy for the assigned Judge of each motion, application, response and brief to the Court Clerk's office at the time the original is filed.
- C. The Court shall determine whether oral argument will be entertained on a motion and shall provide attorneys of record with notice of the specific hearing date and time.

RULE CV 18. Briefing

All motions, applications, responses and briefs must be filed in accordance with applicable statutes and deadlines and must comply with Oklahoma Supreme Court Rule 1.11(a), 12 O.S. Ch. 15, App. 1.

Each brief shall be clearly styled to show whether it is in support of a motion, in opposition to a motion, or a reply brief, the particular application or proceeding to which it relates, and the party or parties on whose behalf it is presented.

All motions and applications and responses to them, including briefs if required, shall not exceed twenty (20) pages in length without prior permission of the Court.

Reply briefs are permitted only by leave of Court by application stating the reason for filing a reply brief. Reply briefs should not be attached to the application but should be filed separately within five days after permission is granted. No reply brief may exceed five (5) pages in length. No further briefs shall be filed without prior permission of the Court.

RULE CV 19. Responses to Interrogatories and Requests for Admission or Production

Each answer or objection to an interrogatory, request for admission, or request for production of documents or things pursuant to 12 O.S. §§ 3233, 3234 and 3236 shall be immediately preceded by the interrogatory or request to which response is being made.

RULE CV 20. Discovery Not to be Filed

Depositions, interrogatories, requests for admissions, requests for documents and things, and responses to these shall not be filed with the Court Clerk except as attachments to a motion or response to a motion or are ordered by the judge to be filed. A motion to compel discovery or discovery motion for protective order shall include either a verbatim recitation or a copy of the interrogatory, question, request, answer, response or objection which is the subject of the motion.

RULE CV 21. Disputed Discovery Motions

The Court will refuse to set or hear any discovery dispute unless counsel for the movant advises the Court in the motion that the lawyers have conferred either in person or by telephone with each other in good faith about the dispute but have been unable to resolve it. Correspondence alone will not satisfy this requirement.

RULE CV 22. Discovery Code Protective Orders

Counsel or parties requesting the Court to seal or remove pleadings, records or materials from the public record are required to follow the procedures set forth in 12 O.S. § 3226 (C)(2-7).

RULE CV 23. Trial Exhibits

Copies of all exhibits to be offered at trial must be marked by number and exchanged with opposing counsel before the pretrial conference and provided to the Court at the pretrial conference, unless waived by the Court. Anatomical models and enlargements of marked exhibits may be excluded from those provided to the Court but must be shown to opposing counsel.

RULE CV 24. Jury and Court Reporter Fees

The jury and court reporter fees specified in 28 O.S. § 152.1 must be paid by the requesting party no later than pretrial. No pretrial order will be filed without payment of the jury and/or court reporter fees.

RULE CV 25. Pretrial Order

Only one pretrial order shall be submitted.

Plaintiff's counsel shall initiate the preparation of the pretrial order by submitting a proposed pretrial order to opposing counsel no later than 15 days before the pretrial conference hearing. If Plaintiff's counsel fails to do so, then at least 10 days before the pretrial conference hearing, Defendant's counsel shall submit a proposed pretrial order to Plaintiff's counsel. If plaintiff is pro se, the first named represented party shall initiate its preparation. Opposing counsel and pro se parties must cooperate with the preparing party in the completion of the pretrial order and shall return the completed pretrial order to opposing counsel no later than 5 days before the pretrial hearing.

Failure to comply with these requirements may result in sanctions, including those provided in Supreme Ct. Rule 5.

RULE CV 26. Videotaped Depositions

Counsel must confer to resolve objections in videotaped depositions to be used at trial. To avoid delay at trial, those objections not resolved by counsel shall be marked on a copy of the transcript and presented to the Court no later than commencement of the trial.

RULE CV 27. Withdrawal of Counsel

When submitting an Application or Motion to Withdraw and an Order Allowing Withdrawal, counsel must comply with both of the following:

A. Every **Application to Withdraw** as counsel in a civil case must contain the following:

1. Statement of grounds for withdrawal.
2. Current status of the case (including when hearings, if any, have been scheduled).
3. Whether new or substitute counsel has been obtained by the client and entered an appearance.
4. A certificate of mailing to the client showing last known mailing address and to all other attorneys of record in the case.

No Application to Withdraw will be considered unless submitted to the assigned judge no later than 20 days before the date on which a hearing or trial is scheduled.

B. Every **Order Allowing Withdrawal** must contain:

1. A statement of the case’s current status, including when hearings, if any, have been scheduled AND
2. A certificate of mailing to the client showing last known mailing address and to all other attorneys of record in the case.

RULE CV 28. Judgments for Minors

The Judge entering a judgment or order regarding payment of money for a minor pursuant to 12 O.S. § 83 shall immediately transfer the case to the Presiding Judge for re-assignment to the Probate Division.

RULE CV 29. Journal Entries, Orders and Decrees

Every order pertaining to an assigned case is to be presented to the Judge to whom the case is assigned.

Every journal entry, order, decree or other judgment shall contain the full style of the case naming all parties.

Every journal entry, order, decree or other judgment presented to the Court

for signature shall contain the approval as to form by the attorneys for each of the parties, unless waived by the Judge.

If counsel cannot settle the journal entry or order, then the attorney proposing it shall give notice to opposing counsel of the time of presentation of the journal entry or order for signature by the Judge.

Journal entries, orders and decrees must be prepared and submitted to the Court and filed within 20 days of the verdict or Court's ruling.

When a decree in a Family case is to be entered by the Court, unless otherwise designated by the Trial Judge, the attorney for the plaintiff shall prepare a journal entry and present it to the Judge for signature and to the Court Clerk for filing within twenty (20) days from the date the decree is entered.

RULE CV 30. Final Orders

Any final order or judgment must so specify on the order or journal entry of judgment. If the order or journal entry does not so state in its title, it will be filed and docketed by the Court Clerk as a non-final order or judgment.

RULE CV 31. Orders with Special Instructions

A party or attorney filing an order containing instructions for special handling by the Court Clerk's office must notify the Court Clerk, the First or Second Deputy, or the appropriate department head of these instructions upon filing. Failure to do so may result in the Court Clerk's inability to comply with the Court's directions due to lack of proper notice.

RULE CV 32. Interest On Court-Deposited Funds

When a Court requires funds on deposit in a case with the Court Clerk to be deposited in interest-bearing accounts, unless statutes otherwise specify, the party seeking deposit shall present an order to the Court in which the Court shall order the County Treasurer to deposit the funds in a specified institution and for a specified term.

RULE CV 33. Costs In Foreclosure Actions

In foreclosure of real property cases, all outstanding court costs and fees shall be due and payable at the time of the Sheriff's return of sale. If accrued court costs have not been paid when the Sheriff tenders his return of sale, the Court Clerk shall receive the return and shall stamp on its face "Received" and the date. However, the return shall not be filed in the case until the outstanding costs are paid. The Clerk shall not file for a party owing costs any further pleadings in the case until that party pays the costs owed.

RULE CV 34. Writs of Assistance - Forcible Entry & Detainer and Foreclosure

All Forcible Entry and Detainer actions proceeding under 12 O.S. 1148 et seq., and all civil foreclosure actions in which Writs of Assistance for the possession of real property are sought shall be governed by the following procedure:

1. The prevailing party, in whose favor a Writ of Assistance or execution for restitution of premises is issuable pursuant to a judgment, shall provide the District Court Clerk with a completed Execution Instruction Form prior to the issuance of execution process. The Execution Instruction Form shall be substantially similar to the one set out below.
2. On the completed Execution Instruction Form, the party seeking execution shall indicate whether he desires restitution of the premises only, or whether both restitution and a levy of execution on the goods and chattels of the judgment debtor is required.
3. In the event that a party seeking a Writ of Execution does not require execution on the goods and chattels of the judgment debtor, the party seeking execution shall so state on the Execution Instruction Form, and shall further state the requested method of restitution for the Sheriff to perform, as follows:
 - a. Removal of persons only from the restored premises; or
 - b. Removal of all persons and removal of their personal property from the restored premises to the nearest city curb line; or
 - c. Removal of all persons and removal of all of their possessions from the restored premises by using the following mover (to be arranged by plaintiff)

Name _____
Address _____
Telephone _____

4. In the event that the party seeking the execution requires both restitution of the premises and a levy of execution of the personal property located therein (to be advertised and sold at Sheriff's Sale, as provided by law), that party shall indicate the number of rooms of the premises to be restored to such party's possession, including living rooms, dining rooms, kitchens, but excluding hallways, bathrooms and closets.

Upon completion of the form, the Court Clerk shall collect court costs and/or anticipated fees, as follows:

a. Statutory fees for the Clerk, Sheriff, sale, notice, publication, etc., as provided by law; and

b. The anticipated cost of inventory, packing, transportation and storage of the personal property upon which levy is sought, in accordance with the anticipated costs structure which is a part of Exhibit OAO incorporated herein by reference. After levy has been completed and the property held has been sold at Sheriff's Sale as provided by law, and upon application of the party seeking the levy of execution, the Court Clerk shall make a refund of any unexpended court costs and/or fees. In the event that the anticipated cost deposit collected by the Clerk is insufficient to cover the expenses incurred in the inventorying, packing, transportation and storage of the property upon which levy is sought, the party requesting the levy shall be required to make an additional deposit with the Clerk to make up the difference between the amount of actual costs incurred and the amount of the anticipated cost deposit initially made by the party.

5. All statements made by a party seeking the issuance of execution by the Court Clerk shall be considered as representations to the Court, and that party shall insure the accuracy of these statements.

6. No execution under this Rule shall be issued until the party seeking execution shall have first completed the Execution Instruction Form and deposited with the Court Clerk all applicable costs and anticipated costs.

FAMILY RULES

RULE DR 1. Assignment of Family Cases

1. All Family cases, including Habeas Corpus actions seeking custody of minor children, DHS, and Paternity cases, shall be assigned at the time of filing to one of the Family Division Judges by random computer function.

2. The Court Clerk shall keep a separate record of all case assignments and show the name of the assigned Judge on the court file, the appearance docket, and computer records. On the day following the filing of the case, the Clerk shall provide a copy of case assignments to each Judge.

3. The assigned Judge will handle the case from filing, including temporary orders, through any post-decree matter. The setting of the case will be determined by the assigned Judge.

RULE DR 2. Miscellaneous Family Case Assignments and Transfers

1. In all Family cases where a claim or counterclaim which exceeds the jurisdictional limit of the assigned Judge is joined with the divorce action, the assigned Judge shall first determine the divorce on its merits and then transfer the case to the Presiding Judge for assignment of any remaining claims to a Judge of appropriate jurisdiction. In no case shall the determination of the divorce be delayed by reason of the joined claim.

2. The Chief Judge of the Family Division reserves the right to transfer cases from one Judge to another for good cause shown.

RULE DR 3. Pre-Decree Orders

1. Temporary Orders

All applications for temporary relief shall:

- Be presented to the Judge assigned to the case;
- Be verified and show both the applicant's need for the temporary relief and the respondent's ability to pay;
- Set forth reasonable amounts;
- Be left in the box designated for the assigned Judge;
- Have a copy of the divorce petition attached as well as the UCCJEA, if applicable.

2. Ex Parte Temporary Orders

Applications for ex parte temporary orders and ex parte emergency orders are heard by the Judge assigned to the case, as provided in Rule DR 1(3). If a restraining order is issued, a hearing will be set before the assigned Judge within ten (10) days. (43 O.S. § 110)

RULE DR 4. Agreed or Default Decrees and Judgments

All requests to grant divorce decrees agreed to by the parties or sought by default shall be heard only by a Judge assigned to the Family Division. These hearings shall be held from 9:00 a.m. to 9:30 a.m. and 1:00 p.m. to 1:30 p.m.

RULE DR 5. Discovery

1. Within twenty (20) days of the date of service of summons or no later than 48 hours before the temporary order hearing, whichever is earlier, both parties shall exchange copies of the following documents:

- a. An accurate and provable statement of the parties' gross monthly income supported by the preceding month's payroll checks and check stubs and evidence of all income received from all sources within ninety (90) days prior to the date of service;
- b. complete tax returns for three (3) years prior to date of service;
- c. an accurate and provable statement of monthly employment-related child care expenses;
- d. evidence of medical insurance coverage and premium cost;
- e. an accurate and provable list of all marital debts, stating the purpose of the debt and the amount of monthly payments for all existing debts and obligations; and
- f. an accurate and provable list of monthly living expenses.

2. All additional discovery shall be commenced within forty-five (45) days of the date of service of summons or notice of hearing, absent agreement of the parties or an order of the Court.

RULE DR 6. Pretrial Orders

All pretrial orders for Family cases must be submitted on the Family Division pretrial order form available from the Court Clerk's office.

RULE DR 7. Trial Settings

All requests to set a case for trial shall be made to the minute clerk of the Judge to whom the case is assigned. A pre-trial order must be submitted by the parties before a case will be set for trial.

RULE DR 8. Post-Decree Proceedings

1. All applications for post-decree relief, including motions to modify and citations for contempt, shall be verified pursuant to Rule 4 of the Oklahoma Rules for the District Courts and presented to the Judge to whom the case is assigned. No briefs are required unless unusual legal questions are presented.

2. In post-decree proceedings in which motions or requests for attorney’s fees have been brought to the attention of the Court at the time of trial and specifically reserved, no post-judgment motion fee will be required. If attorney’s fees have not been reserved or claimed prior to entry of the decree or final order, the Court Clerk shall charge and collect the statutory filing fee for post-judgment motions.

RULE DR 9. Cases Involving Children

In any divorce or paternity case involving the interests of minor children, the Tulsa County District Court requires both parents (plaintiff and defendant) to attend the four-hour seminar “Children Cope with Divorce”. (Administrative Order CV-95-12) Both parents must comply with this order within forty-five (45) days of service of the petition or motion. A registration form may be obtained from the Court Clerk’s office or by calling 918/498-5438.

RULE DR 10. Termination of Parental Rights

In cases where termination of parental rights is requested or agreed to, an attorney must be appointed for the child prior to an order being entered.

RULE DR 11. Application of Civil Rules

The Civil Rules contained in the previous section (Rule CV 1 et seq.) are applicable to Family cases unless otherwise provided for in this section (Rule DR 1 et seq.).

For updates and additional information, please consult the Family Division’s website @ www.familiesintransition.com or contact the minute clerk for the Family Chief Judge.

CRIMINAL RULES

RULE CR 1. Orders of Release

A. Orders of Release - Criminal Bond Index

A Criminal and Traffic Bond Index has been prepared and will be periodically reviewed under the direction of the Presiding Judge. This listing of bonds shall be for the purpose of expediting releases from the Tulsa County Jail and as a guide for judges to follow in order to provide consistency in bond settings. It shall not, however, affect the discretion of a Judge initially to set a higher or lower bond without a hearing or to raise or lower the bond initially set in a case, provided a proper hearing is held with all parties present.

The bond amount for Fugitive From Justice charges shall be taken from the bond reflected on the fugitive warrant. If no bond is shown on the fugitive warrant, the bond shall be set according to the Tulsa County Bond Index.

B. Initial Arraignment Court Dates

When a defendant is booked into the Tulsa County Jail/David L. Moss Criminal Justice Center, a probable cause determination will be made as soon as is reasonably feasible, but in no event later than 48 hours after arrest. The initial appearance before a Magistrate for arraignment shall be as soon as is reasonably feasible, but in no event later than six (6) days from the date of booking.

Dates for return after the initial arraignment is held shall be determined by the Arraignment Judges.

In determining the initial arraignment court dates, the first (or current) day shall be excluded and the last day shall be included. Days on which the Courthouse will be closed for business should be counted when figuring the time. If the court date falls on a day the Courthouse is scheduled to be closed, the date should be set for the next day the Courthouse is scheduled to be open.

Defendants booked into custody on any charge shall be scheduled for the next available arraignment before a Magistrate for bond setting. If the defendant's arrest occurs after regular hours and just before a weekend or a day on which the Courthouse will be closed, the defendant's bond setting shall be referred to the Magistrate who has been assigned to the Judicial Reviews of Affidavits of Arrest on those days. The Magistrate shall set bail for the defendant and shall set the initial arraignment six (6) days away.

C. Orders of Release - Tulsa County Pretrial Release Program

Qualifying defendants may be released on their own recognizance through the Tulsa County Pretrial Release Program subject to the Court's approval.

D. Failure to Appear or Pay

No person being held for failure to appear will be released from the City-County Jail without approval of a Judge or posting an appearance bond. No person shall be released in the case of failure to pay without approval of a Judge, payment in full, or under the authority granted the Tulsa County Court Cost Administration as set out in the Tulsa County Court Cost Administration consensus, effective August 1, 1995.

Under the authority of 22 O.S. § 1105 effective July 1, 1995, the Order of Release of any prisoner in the Tulsa County Jail may be issued by the Sheriff of Tulsa County or the Court Clerk of Tulsa County subject to the following conditions:

1. The terms "Court Clerk" and "Sheriff" shall include their authorized deputies.
2. The Court Clerk on the verbal or written order of a Judge shall immediately execute an Order of Release and promptly deliver it to the Tulsa County Sheriff who shall without undue delay release the person from custody according to the terms contained in the Order of Release.
3. The Sheriff on the verbal or written order of a Judge shall immediately issue an Order of Release and promptly release the person from custody.

The Sheriff shall issue an Order of Release under the conditions set forth above and also shall take immediate action to effect the release of the person detained upon receipt of the Order of Release.

4. The Order of Release shall contain the following information:
 - a. that it is in the District Court of Tulsa County, Oklahoma
 - b. the defendant's name
 - c. case number(s), if any,
 - d. other information which may be readily available to the officer or deputy executing it, and
 - e. sufficient information to give the Sheriff unmistakable knowledge and direction as to the intended disposition of each case and/or counts within a case.

5. When a good and sufficient bond is posted by or on behalf of a person in custody in an amount approved by a Judge, the Court Clerk or the Sheriff is authorized and ordered to execute an Order of Release to the Sheriff of Tulsa County.

RULE CR 2. Initial Arraignments

All initial arraignments, except felony traffic offenses, shall be held at the times established by the Presiding Judge and judges assigned to the Criminal Division.

When the Courthouse is closed to public business, judicial reviews of Affidavits of Arrest will be conducted by a Magistrate between the hours of 7:30 a.m. and 1:30 p.m. A list of Magistrates assigned to this duty will be provided by the Presiding Judge.

RULE CR 3. Assignment of Felony Cases

Assignment of felony cases shall be made by random computer function.

1. On the first working day of each year, the Presiding Judge or designee shall prepare a list giving each felony trial judge an assigned number. The assignment number shall be randomly selected and revealed only to the Assignment Judge calling the arraignment docket. A control copy will be retained by the Presiding Judge.

2. Before a felony arraignment, the Minute Clerk shall have the Court file with assignment number stamped on it for presentation to the arraignment Judge. When a felony case is called for initial arraignment, the arraignment Judge shall announce in open Court the name of the assigned Judge matching the assignment number on the Court file and place that name on the court file. The Minute Clerk shall include the name of the assigned Judge in the arraignment minute. The Court Clerk shall enter the name of the assigned Judge on the appearance docket and computer records.

RULE CR 4. Consolidation of Felony Cases

If there is more than one pending felony case against a defendant, the Arraignment Judge shall assign any subsequent felony cases to the District Judge with the lowest pending felony case number. If a subsequent felony case charges multiple defendants, one or more of whom have pending felony cases, the subsequent felony case shall be assigned randomly.

The Clerk shall prepare an Order of Reassignment to be signed by the directing Judge for each case reassigned in this manner. The Order of Reassignment

is to be filed in its respective case with a copy provided to the District Judge to whom the case was reassigned.

For purposes of this rule, the term ‘pending felony case’ is defined as:

1. a felony offense with an undisposed felony arrest warrant;
2. a felony offense with an undisposed felony bench warrant for failure to appear;
3. a felony offense with a suspended or deferred sentence which has not expired;
4. a felony offense with a future pending court date.

The term ‘pending felony case’ shall not refer to any pending misdemeanor offense (even if that offense bears a felony case number) unless the offense was disposed of by a District Judge.

The term ‘pending felony case’ shall not refer to any pending court cost proceeding in a previously numbered felony matter.

RULE CR 5. Reassignment of Felony Cases

If a Judge recuses or is disqualified or a case needs to be reassigned for any reason not set out in these rules, the case shall be referred to the Presiding Judge for reassignment or other action in conformity with the laws of the State of Oklahoma. A Judge shall be assigned one case for each case transferred by that Judge. A case which is dismissed and refiled should be assigned to the original Judge.

A separate record of all reassignments shall be furnished to the Court Clerk who shall show the name of the reassigned Judge on the court file, the appearance docket, and computer records. A copy of each reassignment shall be furnished to each Judge affected by it.

RULE CR 6. Preliminary Hearings

A. The Preliminary Magistrate calling this docket shall assign the cases ready for hearing to the other Preliminary Judges.

B. Requests to pass Preliminary Hearings by either party will be granted only for good cause shown. This provision will be strictly construed by the Criminal Division Special Judges.

C. If a defendant is ordered to stand trial, the Judge shall direct the defendant and his/her counsel when to appear before the assigned Trial Judge for the trial arraignment.

D. At the end of each day, the clerk of the Magistrate calling the preliminary hearing docket shall prepare for each Trial Judge a record of the preliminary hearings held that day. The report shall include those cases set for trial arraignment, the date of the trial arraignment, and the assigned Judge. The Trial Judge shall prepare his/her arraignment docket from these records.

RULE CR 7. Appeal from Magistrate

All applications to appeal from an adverse ruling or order of a Magistrate shall be handled in accordance with 22 O.S. § 1089.1 et seq.

RULE CR 8. Trial Arraignments

- A. Trial arraignments shall be held on the day and time set by each Judge.
- B. Counsel shall be prepared at the time of trial arraignment to assist the Court in setting a trial date to avoid conflicts with counsel's prior commitments.
- C. Requests for continuance to secure transcripts of preliminary hearings shall be accompanied by the appropriate Court Reporter's Certificate estimating time of completion.

Upon full payment of the estimated cost of the transcript, the Court Reporter shall furnish to counsel a Certificate stating the transcript's earliest available date, not to exceed 18 days. If the transcript's length dictates a completion time greater than 18 days, the Court Reporter shall arrange personally with the Trial Judge for a longer completion time.

RULE CR 9. Presentation of Orders in Felony Cases

Every case shall continue to be handled by the assigned District Judge, and all orders should be presented to that Judge.

If the assigned District Judge is unavailable, and there is no specially assigned Judge presiding in his/her place, then the Chief Judge-Criminal may enter any order in a case pending before the assigned Judge; however, entering such an order does not cause a transfer of the case from one Judge to another.

RULE CR 10. Conflict of Interest-Reassignment of Case

- 1. If the Court determines that a conflict of interest exists at the trial level between a defendant and a County Indigent Defender, the case may be reassigned by the assigned District Judge to a private attorney who represents indigents pursuant to contract or a private attorney who has agreed to accept such appointments.

In addition, in every case where the defendant is subject to the death penalty and a conflict of interest exists at the trial level between the defendant and the County Indigent Defender, the assigned District Judge may appoint the Indigent Defense System to represent the defendant or may appoint a private attorney who represents indigents pursuant to contract or a private attorney who has agreed to accept such appointment. However, in every case where more than one defendant is subject to the death penalty and a conflict of interest exists at the trial level between one or more of the defendants who are subject to the death penalty and the County Indigent Defender, the assigned District Judge may appoint the Indigent Defense System to represent not more than one of the defendants in the case and may appoint a private attorney who represents indigents pursuant to contract or a private attorney who has agreed to accept such appointments to any other defendant(s) in the case.

2. Total compensation shall not exceed five hundred dollars (\$500) in the following cases:

- a. juvenile cases
- b. mental health cases
- c. grand jury cases
- d. traffic cases
- e. misdemeanor cases
- f. guardianship cases
- g. contempt proceedings
- h. child abuse cases pursuant to 10 O.S. § 7112
- i. felony cases, except murder cases.

3. Total compensation shall not exceed one thousand five-hundred dollars (\$1,500) in non-capital murder cases.

4. Total compensation shall not exceed three thousand dollars (\$3,000) in capital cases.

5. An attorney's fee and expenses in excess of the above amounts may be compensated upon application to and approval by the Trial Judge, subject to the approval of the Presiding Judge.

6. Any attorney providing services pursuant to this rule shall continue to provide representation until the trial court loses jurisdiction, unless the court allows an attorney to withdraw upon proper application.

7. When the trial court loses jurisdiction, an attorney providing services pursuant to this rule shall submit an application for compensation with an affidavit detailing the hours spent on the case and the services rendered. The application shall

also state if any amount awarded by the court shall be the sole source of compensation for the services provided. If other sources of compensation are used, the other sources and amounts shall be specified in the application.

RULE CR 10.5 Failure to Retain Counsel - Assessment for Appointment of Counsel

When a defendant appears without counsel, the Court shall advise the defendant concerning his/her 6th Amendment right to counsel. The Court shall then determine if the defendant wishes to waive his/her right to counsel. If the defendant does not wish to waive his/her right to counsel, the Court shall determine the defendant's indigency status, under oath, by Pauper's Affidavit and/or oral examination, pursuant to the procedures and applying the standards established by 20 O.S. § 55 and Ct.Crim.App.Rule 1.14. The ability to make bond may be considered as a factor by the Court in determining indigency but shall not be the sole determining factor. All District and Special Judges are authorized to determine the indigency status of all persons who appear before them. (Ct.Crim.App.Rule 1.14) If the defendant is indigent, the Court will appoint counsel. When a defendant does not qualify as an indigent, the Court shall pass the defendant's case(s) for a reasonably sufficient time to allow the defendant to retain counsel. Before excusing the defendant, the Court shall give clear warning that causing further delay by willfully appearing without counsel is impermissible and may be punished as contempt. Bond shall not be revoked or raised because the defendant has failed to retain counsel.

If the defendant returns without counsel, his/her indigency status has not changed, the defendant does not wish to waive his/her right to counsel, and the parties involved are at an impasse, the Court shall inform the defendant of the Court's intention to institute direct contempt proceedings. Before imposing punishment, the Court shall give the defendant notice of the contempt charge, place the defendant in custody, set bond and set a date for a show cause hearing to give the defendant a summary opportunity to adduce evidence and/or argument relevant to guilt and/or punishment. At the discretion of the Court, the defendant may be advised that if an attorney is obtained for the criminal case prior to the hearing, the contempt charge will be dismissed. If the defendant is found in contempt, he/she may be punished with up to a \$500 fine and/or up to six months in the county jail. 21 O.S. § 566(A). At the discretion of the Court, the defendant may be advised that the balance of the jail term and/or the imposed fine will be suspended upon retention of counsel.

At the conclusion of every case where the county indigent defender or a conflict indigent defender has been appointed, the Court shall consider whether an assessment should be paid by the defendant for the representation pursuant to 19 O.S. § 138.10.

RULE CR 11. Withdrawal of Counsel

No withdrawal of counsel will be allowed between arraignment and preliminary hearing unless for good cause shown in writing submitted no later than twenty (20) days before preliminary hearing. The application should include the information outlined in CV 27.

No application to withdraw as counsel for a defendant will be considered unless presented to the Court at least ten (10) days before the date on which the case is set for trial.

RULE CR 12. Notification of Entry of Appearance of Private Counsel

If counsel accepts employment to represent a client who is or was represented by another attorney, including the County Indigent Defender’s Office, written notice of such entry of appearance shall be given immediately to the Court, the Court Clerk and the other attorney.

RULE CR 13. Compensation - Expert Witnesses

When an indigent defendant charged with a criminal offense demonstrates to the trial judge that his/her sanity at the same time of the offense is to be a significant factor at trial and/or that the defendant will be prejudiced by a lack of expert assistance, the trial court shall authorize counsel to obtain expert services reasonably necessary to permit the indigent defendant to adequately prepare and present his/her defense at trial. [Ake v. Oklahoma, 105 S. Ct. 1087 (1985) and Rogers v. State, 890 P.2d 959 (Okl. Cr. 1995)]

Compensation for such expert shall be paid from the court fund in a sum not to exceed seven hundred fifty dollars (\$750.00) per indigent defendant, the specific amount to be determined by the trial judge, subject to the approval of the Presiding Judge. An expert’s fee and expenses in excess of seven hundred fifty dollars (\$750.00) per indigent defendant may be compensated upon application to and approval by the trial judge, subject to the approval of the Presiding Judge, prior to the retention of the expert.

When the trial court loses jurisdiction, an application for compensation must include an itemized statement of the services provided and shall be accompanied by an affidavit of the expert who provided the services stating whether the amount awarded by the trial court shall be the sole source of compensation. If other sources of compensation are used, the other sources of compensation and amounts shall be specified in the application.

RULE CR 14. Writs Ad Prosequendam/Ad Testificandum

1. Counsel or party making application for a writ to secure the presence of a prisoner at a criminal hearing must serve a copy of the application by mail on the custodian of the prisoner, the Sheriff of Tulsa County, and the District Attorney of Tulsa County. If the custodian is a warden/superintendent of a state correctional facility, a copy must also be mailed to the General Counsel of the Department of Corrections.
2. Counsel or party making application shall deliver a copy of the application to the assigned judge, have the application set on the docket and scheduled for a hearing.
3. Counsel or party making application shall notify all parties of the specific hearing date.
4. No writ shall issue without notice and a hearing unless waived by the custodian and the District Attorney. Counsel for the custodian may respond to the application by written motion and brief with a request for the court to rule on the application in accordance with Rule 4(h) of the Oklahoma Rules for District Courts.
5. The application shall be styled the same as the criminal case at issue.
6. The hearing will be scheduled not less than 10 working days before the date of the hearing at which the presence of the prisoner is requested, unless the prisoner is in the Tulsa City-County Jail System, in which event, the Court may shorten the time.
7. Reference 22 O.S. § 1151.

RULE CR 15. Acceleration and Revocation Procedures

Where a criminal charge is filed against a person who is presently on a deferred or suspended sentence, the District Attorney's Office will make every effort to see that an application and order to accelerate or revoke is filed against the defendant at the same time the subsequent charge is filed.

At the time an arrest warrant is prepared on the subsequent criminal charge, a bench warrant will also be prepared on the application and order to accelerate or revoke. Thus, when the defendant is apprehended and arraigned on the subsequent criminal charge, he/she may also be notified of the acceleration or revocation proceeding brought against him/her.

Before filing the application, the District Attorney's office will present it

to the sentencing Judge to apprise the Judge of the allegations against the defendant and will request the Judge to issue a bench warrant for the defendant's apprehension. When a bench warrant is issued, it shall be delivered to the Sheriff's office for execution of the warrant and a copy of the application and order to accelerate or revoke shall be filed in the original case.

When apprehended on a bench warrant, the defendant should be taken to the Tulsa County Jail and held there for appearance before the Judge issuing the warrant. After the defendant is incarcerated, the jail personnel should notify the District Attorney's Office that the defendant is in custody and should state when the defendant is to be taken before the Judge issuing the warrant for the hearing.

When brought before the Judge to set the hearing, the defendant shall be served with a copy of the application and order to accelerate or revoke and shall be advised of the following:

1. That an application to accelerate judgment and sentence or revoke suspended sentence has been filed against the defendant alleging that he/she has violated the rules and conditions of his/her probation;
2. That the defendant has a right to have a hearing within twenty days;
3. That at the hearing, the defendant has a right to be confronted by the witnesses against him/her, that the defendant or defendant's attorney may cross-examine these witnesses, and that the defendant may present testimonial and/or documentary evidence in his/her own behalf; and
4. That if the defendant cannot afford the services of an attorney, one will be appointed to represent him/her.

RULE CR 16. Expunge Orders

Unless otherwise specified by the Court, expungements will be granted only according to the provisions of 22 O.S. § 991C.

1. The order of probation and the Expunge Order on pleas of guilty (or nolo contendere) shall be removed from the case file and retained together with a copy of the docket sheet in a separate confidential file.
2. All reference to the defendant's plea of guilty (or nolo contendere) shall then be deleted from the docket sheet, leaving only the references to the dismissal of the case.
3. No information concerning the confidential files shall be revealed except

upon a written order of a District or Associate District Judge.

All previous administrative orders concerning the expunging of records in criminal cases are hereby revoked.

Other criminal cases ordered expunged according to the provisions of 22 O.S. §§ 18 and 19 shall be filed in the Criminal Division under the MI case designation.

RULE CR 17. Indigent Defender - Report

Each month the County Indigent Defender shall examine into the causes for confinement of all persons confined in the Tulsa County Jail, except persons held under federal process, and report briefly the facts of such examination to the Presiding Judge and Sheriff, in writing, on or before the 15th day of each month. An original of this report shall be filed in the Office of the County Indigent Defender for reference by any properly authorized person as an official record.

TRAFFIC RULES

RULE TR 1. Dockets

A. The Special Judge assigned to the Traffic Docket shall call the docket according to the schedule set by the Presiding Judge and the assigned Traffic Judge(s).

No continuances will be granted by the Court except for good cause shown.

All in-custody pleas not ready for the docket when called will be passed to the next docket.

B. All cases in which the defendant enters a plea of not guilty at arraignment will be set on the daily disposition docket approximately three (3) weeks from the day of arraignment. At the calling of the daily disposition docket, the defendant will have the following alternatives:

a. Enter a plea of guilty or nolo contendere, subject to the approval of the Court, and be sentenced immediately;

b. Waive right to trial and have the case set for sentencing on a date certain; or

c. Have the case set for trial on a date certain.

C. Where a bench warrant has been issued for a defendant because of his/her nonappearance, the defendant must thereafter post bond before release, and no attorney's affidavit will be accepted, except for good cause shown at the discretion of the Court. Bench warrants issued for failure to pay costs, fees, fines, etc., may be satisfied by payment of the obligation to the Court Clerk. In that event, the bench warrant may be recalled without incarceration of the defendant or the defendant may be released from custody without the necessity of being brought personally before the Court.

D. Pursuant to 22 O.S. §§ 1113 and 1115.1(A-D), a defendant released upon personal recognizance may enter a plea of guilty or nolo contendere to the Court Clerk at any time prior to the arraignment date, which is reflected on the citation.

The fines, including court costs, imposed upon a plea of guilty or nolo contendere entered before the Court Clerk shall be in accordance with the statutory Oklahoma Bond Schedule, as provided by the Administrative Office of the Courts, pursuant to 22 O.S. § 1115.3.

E. Any person violating the provisions of Chapters 10, 11, 12, 13, 14, or 16 of Title 47 of the Oklahoma Statutes, where a jail sentence is not mandatory, may in the discretion of the District Attorney and subject to the approval of the Court, be permitted to enter a plea of guilty by written statement by the person charged to be presented to the Court.

F. Except as provided in paragraphs D and E above, all pleas of guilty must be made orally by the defendant before the Court.

RULE TR 2. Driver’s License Appeals

All appeals regarding the suspension of a driver’s license by the Department of Public Safety shall be assigned to the Special Judge assigned to the Traffic Court.

If there is an objection to the assigned Special Judge hearing an appeal, that Special Judge shall proceed as a Referee, and the case will be reassigned by the Presiding Judge, upon completion of the Referee’s written findings and conclusions.

JUVENILE RULES

RULE JV 1. Assignment of Juvenile Cases

JDL and JD cases shall be assigned randomly and equally among all judges in the Juvenile Division. JT and JS cases shall be assigned randomly and equally to the Special Judges in the Juvenile Division. The Chief Judge may make special assignments when necessary for good cause shown.

RULE JV 2. Referrals from Family Division

Before referring a case from the Family Division to the Juvenile Division pursuant to 10 O.S. § 7002-1.2, the referring Judge shall notify the Chief Judge of the Juvenile Division. The case will be set for review in the Juvenile Division, and the Juvenile Judge hearing the case shall report the results of the investigation to the original Family Division Judge.

RULE JV 3. Confidentiality in Juvenile Cases

1. News media and judges should work together with confidence in and respect for each other;
2. News media are welcome to attend Juvenile Court sessions but should not disclose names or identifying data of participants unless authorized by the court;
3. Names may be used if alleged juvenile offenders are remanded for criminal prosecution in an adult criminal court;
4. Responsibility for developing public interest and understanding of the child, the community, and the Court must be shared by the Judge and the news media;
5. Official records may be inspected only with the assigned Judge's consent unless prohibited by statute;
6. Confidential reports are not open to inspection except at the express order of the assigned Judge;
7. The assigned Judge, in the exercise of discretion, may release the name or other identifying information of a juvenile offender;
8. Statutory and ethical rules concerning the release of information in juvenile proceedings should be followed [10 O.S. §§ 7005-1.1 et seq.];
9. If an alleged act of delinquency is publicized, the news media may be informed of the final disposition of the case;

10. News media should bear in mind that a juvenile matter may ultimately be handled as a criminal case;

11. News media should recognize its responsibility to report events in a general manner without disclosing names or addresses where some matters are of sufficient public interest and could serve as a deterrent to others. [Okla. Publ. Co. v. District Court, 555 P.2d 1286 (Okla. 1976).]

PROBATE RULES

RULE PR 1. Section 83 Trusts for Minor Children

All Applications and Orders for disbursements and termination of trusts established for minor children pursuant to 12 O.S. § 83 shall be submitted to the Probate Judge or designated Judge for approval.

RULE PR 2. Accountings and Reports

A. Annual Reports and Plans

Before filing an annual report in a guardianship or conservatorship, the guardian or conservator shall submit the report to the Court for approval along with any required accounting and plans. The Court will review the annual report and if it appears proper on its face, the Court will enter an order approving the report on a temporary basis without a hearing. The Guardian or Conservator will then file the annual report and the order approving the annual report.

B. Notice of Filing Annual Report

On the date of filing an annual report, the guardian or conservator shall mail a copy of the report and notice of right to object to the persons entitled to notice and provide proof of such mailing by the contemporaneous filing of an affidavit of mailing with a copy of the notice attached.

C. Objections to Report Set for Hearing

If the annual report does not appear proper on its face or if a timely objection is filed, the report shall be set for hearing with notice given by the Court. If the annual report appears proper on its face and no timely objection is filed, the order approving will, according to its terms, become final on the 16th day after the filing of the annual report.

D. Failure to File Annual Report - Cause for Removal

The failure of a guardian or conservator to file a timely annual report may constitute grounds for suspension and revocation of Letters of Guardianship/Conservatorship resulting in the removal of the Guardian/Conservator.

If any Guardian/Conservator fails to file an annual report within fifteen (15) days of the required filing date, the Court shall cite the Guardian/Conservator to appear to show cause why he or she should not be removed and a successor appointed. The Court shall mail notice of this hearing at least ten (10) days before the hearing to the Guardian/Conservator, to the Guardian's/Conservator's attorney,

to the ward, and to those persons entitled to notice of a request for the appointment of a Guardian/Conservator.

E. Final Accountings

Final Accountings in all Probate, Guardianship and Conservatorship matters shall be heard by the Probate Judge after being set for hearing and proper statutory notice being given. If no one appears on a final account, the Court may strike the hearing and require new notice to be given.

RULE PR 3. Mandatory Filing of Pleadings

1. No final accounts or determination of death actions will be set for hearing until the tax releases are filed unless otherwise allowed by the Court. In those cases where all the property, both real and personal, passes to the surviving spouse, no tax release will be required.

2. All pleadings including, but not limited to, inventories, affidavits of mailing with attached notice, affidavits or proofs of publication, tax releases, waivers, and consents must be in the court file, or the attorney must present file-stamped copies, before the Court will hear any evidence at any hearing, whether contested or not.

3. No guardianship/conservatorship annual report will be accepted for filing unless there is contemporaneously filed an affidavit of mailing with a copy of the notice of right to file an objection attached.

RULE PR 4. Inspection - Confidentiality of Records

An Order to Present Record shall be obtained (upon showing of good cause) from a Judge of the Probate Court before the Court Clerk may allow any person to review the file or have copies of any pleading or document in matters pertaining to:

Adoptions (10 O.S. § 60.17)

Guardianships & Conservatorships (30 O.S. § 1-122)

Mental Health Records

Last Wills and Testaments in Safe Keeping

Artificial Insemination

Protective Services for the Elderly (43A O.S. § 10-110)

RULE PR 5. Uncontested and Contested Adoption Matters

All adoption matters are assigned to the Probate Judge.

A. The Judge shall have a Court Reporter present to make a record and transcribe all adoption consents and relinquishments of parental rights pursuant to the Oklahoma Adoption Code as amended November 1997.

The Court will not take any consents unless an attorney for the adoptive parties is present to ask the appropriate questions for the record and to make arrangements to pay the Court Reporter for the preparation of a transcript to be filed in the case as required.

B. All contested matters which may result in a Final Decree of Adoption shall be heard by the Probate Judge after special setting. Contested Adoptions, AWOCs, and Terminations of Parental Rights shall be set for hearing on a date certain upon proper statutory notice being given.

RULE PR 6. Legal Counsel for Minor Children

Independent legal counsel or an attorney of the County Indigent Defender's Office shall be appointed for every child in a contested guardianship, contested or default adoption, or termination of parental rights matter.

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SUPPLEMENT TO RULES OF THE DISTRICT COURT OF TULSA COUNTY

PRESIDING JUDGE

J. Michael Gasset

DISTRICT JUDGES

Office No. 1	William Kellough
Office No. 2	Jesse Harris
Office No. 3	Clancy Smith
Office No. 4	Daman Cantrell
Office No. 5	Jefferson Sellers
Office No. 6	Gordon McAllister
Office No. 7	Thomas Gillert
Office No. 8	P. Thomas Thornbrugh
Office No. 9	Linda G. Morrissey
Office No. 10	Mary Fitzgerald
Office No. 11	Rebecca Nightingale
Office No. 12	Doris Fransein
Office No. 13	Deborah Shallcross
Office No. 14	J. Michael Gasset

ASSOCIATE DISTRICT JUDGE

Dana L. Kuehn

SPECIAL JUDGES

Mark Barcus
Terry Bitting
Carlos Chappelle
Theresa Dreiling
Carl Funderburk
Kyle Haskins
Russell Hass
Edward J. Hicks
Charles Hogshead
Allen Klein
Millie Otey
Kirsten Pace
Wilma Palmer
Robert Perugino
Clifford J. Smith
Sarah Day Smith
Rodney B. Sparkman
David C. Youll

JUVENILE COURT REFEREE

Russell Anderson

FAMILY COURT REFEREE

Dawn Moody

COURT ADMINISTRATOR

Vicki A. Cox

RULE 2. Divisions, Dockets, and Assignments of the District Court

SUPPLEMENT TO RULES OF THE DISTRICT COURT OF TULSA COUNTY

The assignments of the District and Associate District Judges are:

DIVISION:

ASSIGNMENT:

CIVIL: Daman Cantrell
Mary Fitzgerald
J. Michael Gasset
Linda Morrissey
Rebecca Nightingale
Jefferson Sellers
Deborah Shallcross
P. Thomas Thornbrugh

CRIMINAL: Thomas Gillert
William Kellough
Dana Kuehn
Gordon McAllister
Clancy Smith

FAMILY:

JUVENILE: Doris Fransein

PROBATE & ADOPTIONS: Jesse Harris

The assignments of Special Judges:

- Traffic Court Room 173
- Civil: Asset Hearings, Defaults, Uncontested Orders and Judgments, Garnishments Room 357
- Small Claims Room 112
- Probate Room 111
- Family Room(s) 348, 349, 378 and 379
- Criminal Room(s) 124, 329, 343, 344 and 347
Arraignments; Preliminary hearings; Misdemeanor dockets;
Magistrates in criminal felony matters
- Protective Orders Room 158
- Juvenile Juvenile Detention Center
315 South Gilcrease Museum Road

Each Special Judge may also be assigned other matters by the Presiding Judge.

RULE 3. Habeas Corpus Actions

Habeas Corpus Actions shall be filed in the following divisions:

RULE 5. Presiding Judge

A. The Presiding Judge is the Chief Administrative Officer of the Courts. All statutory, case law, or court rule references to Chief Judge shall be synonymous with Presiding Judge unless indicated otherwise by these rules, i.e., Chief Judge Family, Chief Judge Criminal, Chief Judge Civil, Chief Judge Juvenile.

RULE 9. Courtroom conduct

SUPPLEMENT TO RULES OF THE DISTRICT COURT OF TULSA COUNTY

13. Cellular phones, pagers or other electronic devices may not be activated in the courtroom. Under no circumstances will cellular phones or any communications devices be permitted in the jury deliberation room by jurors during their deliberations.

RULE 18. Foreign language Interpreters and Interpreters for the Deaf and Hard of Hearing. (New Rule)

A. Foreign Language Interpreters. In all court proceedings in which any party or witness is unable to clearly understand and/or speak English he shall have his statements interpreted into English and/or have documents and statements interpreted to him by a certified foreign language interpreter. A certified foreign language interpreter shall be a person who:

- (1) Makes application to the Presiding Judge on a form prepared by the Office of Court Administration, and adopted in an Administrative Order.
- (2) Agrees in writing to comply with the Code of Professional Responsibility for Interpreters adopted by an Administrative Order.
- (3) Observes two (2) court proceedings; and
- (4) Either:
 - (i) Proves certification by either (a) any United States District Court, (b) the State Consortium for Interpreter Certification program, or (c) any State court of equivalent jurisdiction having a certification program approved by the Presiding Judge, or;
 - (ii) Has attained a four (4) year college degree in the language for which certification is requested, or;
 - (iii) Is determined to be proficient in the language for which certification is requested or deaf interpretation by a majority vote of the District and Associate District Court Judges, or;
 - (iv) Is certified pursuant to procedures adopted pursuant to Okla. Stat. tit. 20 § 1701-1710.

B. Interpreters for the Deaf and Hard of Hearing. In all court proceedings in which any party or witness is unable to clearly understand and/or speak due to deafness or hearing difficulty he shall have his statements interpreted and have statements interpreted to him by a certified sign language interpreter. A certified sign language interpreter shall be a person who:

- (1) Complies with the provisions of Section A 1, 2 and 3 above; and
- (2) Either
 - (i) Proves certification by (a) any United States District Court, (b) the Registry of Interpreters for the Deaf or the National Association for the Deaf or the National Association for the Deaf, or, (c) any state court of equivalent jurisdiction having a certification program approved by the Presiding Judge, or,
 - (ii) Has attained a four (4) year college degree in deaf education which includes proficiency in sign language, or,
 - (iii) Is determined to be proficient in the use of sign language by a majority vote of the District and Associate District Court Judges, or,
 - (iv) Is Certified pursuant to procedures adopted pursuant to Okla. Stat. tit. 20 §1701-1710.

C. Authority of District Court Preserved. Notwithstanding the requirement for certification set forth above, any District Judge, Associate District Judge or Special District Judge may waive certification by any interpreter in any proceeding before that judge if (a) no certified interpreter is available for the proceeding and obtaining one would cause delay contrary to the interest of any party or the Court; and, (b) such interpreter has requisite skill in translating and interpreting as determined by the Judge after appropriate inquiry.

SUPPLEMENT TO RULES OF THE DISTRICT COURT OF TULSA COUNTY

AMENDED CIVIL DIVISION RULES

RULE CV 20.5. Conduct During Depositions (New Rule)

- A. Objections to questions during an oral deposition are limited to “Objection, leading” and “Objection, form.” Objections to testimony during the deposition are limited to “Objection, nonresponsive.” These objections are waived if not stated as phrased during the oral deposition. All other objections need not be made or recorded during the deposition to be later raised in court. Argumentative or suggestive objections or explanations waive objection and may be grounds for terminating the oral deposition or assessing court or other sanctions.
- B. An instruction to a deponent not to answer a question shall be limited to the grounds set forth in Section 3230 E.1. of the Discovery Code, 12 O.S. 2001 §3230 E. 1. The attorney instructing the witness not to answer shall give a concise, nonargumentative, nonsuggestive explanation of the grounds for the instruction if requested by the party conducting the examination.
- C. Counsel and a witness shall not engage in private, off-the-record conferences during the actual taking of the deposition, except for the purpose of deciding whether to assert a privilege or to move for a protective order. Private conferences may be held, however, during agreed recesses and adjournments.

RULE CV 23. Trial Exhibits

Copies of all exhibits to be offered at trial must be marked by number and exchanged with opposing counsel before the pretrial conference and provided to the Court at the pretrial conference, unless waived by the Court. Anatomical models and enlargements of marked exhibits may be excluded from those provided to the Court but must be shown to opposing counsel.

All documentary/photographic exhibits offered or used at trial must be in a binder or notebook in compliance with the Oklahoma Supreme Court Rules for Appeals (Rule 1.33).

RULE CV 27. Withdrawal of Counsel

When submitting an Application or Motion to Withdraw and an Order Allowing Withdrawal, counsel must comply *with both* of the following:

- A.** Every **Application to Withdraw** as counsel in a civil case must contain the following:
 - 1. Statement of grounds for withdrawal.
 - 2. Current status of the case (including when hearings, if any, have been scheduled).
 - 3. Whether new or substitute counsel has been obtained by the client and entered an appearance.

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4. A certificate of mailing to the client showing last known mailing address and to all other attorneys of record in the case.

5. All applications to withdraw must comply with 12 O.S. 2005.2.C.

No Application to Withdraw will be granted absent compelling circumstances if filed within 30 days before the date on which a hearing or trial is scheduled.

B. Every Order Allowing Withdrawal must contain:

1. A statement of the case's current status, including when hearings, if any, have been scheduled *AND*

2. A certificate of mailing to the client showing last known mailing address and to all other attorneys of record in the case.

3. All orders allowing withdrawal must comply with 12 O.S. Sec. 2005.2.C.

RULE CV 30. Final Orders Repealed 3/30/06

RULE CV 33.5. Excess Funds in Foreclosure Actions (New Rule)

In foreclosure of real property cases, motions to confirm sheriff's sales shall contain a notification to the judgment debtor or debtors and lienholders that after payment of the judgment and costs, excess funds may remain with the court clerk to which the judgment debtors and lienholders may be entitled.

RULE CV 35. Personal Data Identifiers (New Rule)

1. Parties should not include sensitive information in any document filed with the court unless such inclusion is necessary and relevant to the case. If sensitive information must be included, the following personal data identifiers must be partially redacted from the pleading:

a. **Social Security numbers.** If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.

b. **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.

c. **Dates of birth.** If an individual's date of birth must be included in a pleading, only the year should be used.

d. **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.

2. A party filing a redacted document may at the same time file by court order an unredacted document under seal containing the personal data identifiers.

3. Counsel shall exercise caution when filing documents that contain the following:

a. A personal identifying number, such as a driver's license number;

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- b. Medical records, treatment and diagnosis;
 - c. Employment history;
 - d. Individual financial information;
 - e. Proprietary or trade secret information.
4. Counsel shall inform and discuss the contents of this Order with all clients so that an informed decision about the inclusion of certain materials may be made. It is the sole responsibility of counsel and the parties to be sure that all pleadings comply with the rules stated herein. The clerk will not review any pleading for redaction.
5. This Civil Rule shall not apply to family, probate, adoption or protective order cases.

AMENDED FAMILY DIVISION RULES

RULE DR 1. Assignment of Family Cases

1. All Family cases, including Habeas Corpus actions seeking custody of minor children, DHS, and Paternity cases, shall be assigned at the time of filing to one of the Family Division Judges by random computer function.
2. The Court Clerk shall keep a separate record of all case assignments and show the name of the assigned Judge on the court file, the appearance docket, and computer records. On the day following the filing of the case, the Clerk shall provide a copy of case assignments to each Judge.
3. The assigned Judge will handle the case from filing, including temporary orders, through any post-decree matter. The setting of the case will be determined by the assigned Judge. Nothing in this rule is intended to prohibit administrative reassignment to a docket which promotes judicial economy (e.g. indirect contempt of court for failure to pay child support).

RULE DR 2. Miscellaneous Family Case Assignments and Transfers (Amended 10-30-2008)

1. In all Family cases where a claim or counterclaim which exceeds the jurisdictional limit of the assigned Judge is joined with the divorce action, the assigned Judge shall first determine the divorce on its merits and then transfer the case to the Presiding Judge for assignment of any remaining claims to a Judge of appropriate jurisdiction. In no case shall the determination of the divorce be delayed by reason of the joined claim.
2. The Chief Judge of the Family Division may transfer cases from one Judge to another for good cause shown at the request of the assigned judge.

RULE DR 8. Post-Decree Proceedings

1. Applications for post-decree relief, including motions to modify and citations for contempt, shall be verified pursuant to Rule 4 of the Oklahoma rules for the District Courts and presented to the Judge to whom the case is assigned. No briefs are required unless unusual legal questions are presented. Provided, however, that this rule shall not prohibit citations for contempt from being administratively assigned to a judge presiding over a child support enforcement docket.

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AMENDED CRIMINAL DIVISION RULES

RULE CR 1. Orders of Release

A. Orders of Release – Criminal Bond Index

A Preset Bond Schedule has been prepared and will be periodically reviewed under the direction of the Presiding Judge. This listing of bonds shall be for the purpose of expediting releases from the Tulsa County Jail and as a guide for judges to follow in order to provide consistency in bond settings. It shall not, however, affect the discretion of a Judge initially to set a higher or lower bond without a hearing or to raise or lower the bond initially set in a case, provided a proper hearing is held with all parties present.

The bond amount for Fugitive From Justice charges shall be taken from the bond reflected on the fugitive warrant. If no bond is shown on the fugitive warrant, the bond shall be set according to the Tulsa County Preset Bond Schedule.

D. Failure to Appear or Pay

No person being held for failure to appear will be released from the City-County Jail without approval of a Judge or posting an appearance bond. No person shall be released in the case of failure to pay without approval of a Judge, payment in full, or under the authority granted the Tulsa County Court Cost Administration as set out in the Tulsa County Cost Administration consensus, effective August 1, 1995.

Under the authority of 22 O.S. §1105 effective April 6, 2004, the Order of Release of any prisoner in the Tulsa County Jail may be issued by the Sheriff of Tulsa County or the Court Clerk of Tulsa County subject to the following conditions:

RULE CR 2. Initial Arraignments

All initial arraignments, except felony traffic offenses, shall be held at the times established by the Presiding Judge and judges assigned to the Criminal Division.

When the Courthouse is closed to public business, judicial reviews of Affidavits of Arrest will be conducted by a Magistrate by 7:00 a.m. on designated days at the Tulsa County jail. The dates of the judicial reviews when the courthouse is closed and a list of Magistrates assigned to this duty will be provided by the Presiding Judge.

RULE CR 6. Preliminary Hearings

- A. No changes.
- B. No changes.
- C. No changes.
- D. Eliminated

RULE CR 10. Conflict of Interest-Reassignment of Case

1. If the Court determines that conflict of interest exists at the trial level between a defendant and a County Indigent Defender, the case may be reassigned by the assigned District Judge or Special Judge to a private attorney who represents indigents pursuant to contract or a private attorney who has agreed to accept such appointments. The assigned attorney will indicate his acceptance of the assignment by executing the judge's written order.

In addition, in every case where the defendant is subject to the death penalty and a conflict of interest exists at the trial level between the defendant and the County Indigent

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Defender, the assigned District Judge may appoint the Indigent Defense System to represent the defendant or may appoint a private attorney who represents indigents pursuant to contract or a private attorney who has agreed to accept such appointments. However, in every case where more than one defendant is subject to the death penalty and a conflict of interest exists at the trial level between one or more of the defendants who are subject to the death penalty and the County Indigent defender, the assigned District Judge may appoint the Indigent Defense System to represent not more than one of the defendants in the case and may appoint a private attorney who represents indigents pursuant to contract or a private attorney who has agreed to accept such appointments to any other defendant(s) in the case. The appointment of private attorneys in capital cases shall be in accordance with the Tulsa County Plan for Appointment of Conflict Defense Counsel.

2. Total compensation shall not exceed one thousand dollars (\$1,000) in the following cases:
 - a. mental health cases
 - b. grand jury cases
 - c. traffic cases
 - d. misdemeanor cases
 - e. guardianship cases
 - f. contempt proceedings
 - g. felony cases, except murder cases.
3. Total compensation shall not exceed three thousand dollars (\$3,000) in non-capital murder cases.
4. Total compensation for lead counsel shall not exceed twenty thousand dollars (\$20,000) in capital cases. Total compensation for co-counsel shall not exceed five thousand dollars (\$5,000) in capital cases.
5. In all cases described above, the hourly is \$60 for time out of court and \$80 for time in court.
6. An attorney's fee and expenses in excess of the above amounts may be compensated upon application to and approval by the Trial Judge upon good cause shown, subject to the approval of the Presiding Judge. In capital murder cases, the maximum fee may be exceeded only upon written approval of the Presiding Judge and a finding that the request for extraordinary fees is reasonable.
7. Any attorney providing services pursuant to this rule shall continue to provide representation until the trial court loses jurisdiction, unless the court allows an attorney to withdraw upon proper written application.
8. When the trial court loses jurisdiction, an attorney providing services pursuant to this rule shall submit a written application for compensation which an affidavit detailing the hours spent on the case and the services rendered. The application shall also state if any amount awarded by the court shall be the sole source of compensation for the services provided. If other sources of compensation are used, the other sources and amounts shall be specified in the application.

RULE CR 13. Compensation – Expert Witnesses

When an indigent defendant charged with a criminal offense demonstrates to the trial judge that his/her sanity at the same time of the offense is to be a significant factor at trial and/or that the defendant will be prejudiced by a lack of expert assistance, the trial court shall authorize

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counsel to obtain expert service reasonably necessary to permit the indigent defendant to adequately prepare and present his/her defense at trial. [Ake v. Oklahoma, 105 S. Ct. 1087 (1985) and Rogers v. State, 890 P.2d 959 (Okl. Cr. 1995)].

Application for any expert or investigator needed for a criminal defense must be filed timely before the trial court. After an ex parte hearing on the record, the appointment may be conditionally approved. The order approving the appointment shall define and limit the task or assistance to be provided and the basis for determining that such assistance is required by the 6th Amendment.

The order will be presented to the Presiding Judge for final approval with a contract or agreement with the expert or investigator delineating the work to be performed, an estimate of the total cost, a schedule for completion and an hourly fee for both in and out-of-court time. The Presiding Judge will deny the appointment or approve the appointment with dollar or other limitations.

In the event that the approved assistance may exceed the defined limits, counsel must reapply to the Presiding Judge for additional compensation or assistance.

All orders approving or denying will be filed but may be sealed upon request of counsel.

In the event that the request is for assistance regarding competency or examinations required by 10 O.S. §7306 et seq. and the expert is a state employee or contracted by the court to do the requested examination, only an application to the trial court is required.

Compensation for appointed experts shall be made only after services are provided.

When the trial court loses jurisdiction, an application for compensation must include an itemized statement of the services provided and shall be accompanied by an affidavit of the expert who provided the services stating whether the amount awarded by the trial court shall be the sole source of compensation. If other sources of compensation are used, the other sources of compensation and amounts shall be specified in the application.

RULE CR 16. Expunge Orders

Unless otherwise specified by the Court, expungements will be granted only according to the provisions of 22. O.S. §991C.

1. (No changes)
2. (No changes)
3. (No changes)

Other cases ordered expunged according to the provisions of 22 O.S. §§18 and 19 shall be filed under the MI case designation and subject to civil fees and assessments and randomly assigned to the District and Associate District Judges with criminal dockets.

RULE CR 17. Indigent Defender – Report

Rule repealed effective 7/24/2008; CV-2008-18

RULE CR 18. Pretrial Evidentiary Motions (New Rule)

Motions requiring evidentiary hearings must be filed three weeks in advance of trial. Any exception to this rule will be at the discretion of the trial judge.

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AMENDED JUVENILE DIVISION RULES

RULE JV 1. Assignment of Juvenile Cases

1. All judges in the Juvenile Division shall be assigned JDL, JD and JT cases with the Chief Judge in the Juvenile Division, if necessary and for good cause shown, receiving a lesser percentage of the newly-filed cases than the Special Judges. Said percentages of assigned cases shall be determined by administrative order issued by the Presiding Judge.
2. JS cases shall be assigned randomly and equally to the Special Judges in the Juvenile Division.
3. The Chief Judge shall transfer the assignment of a newly-filed petition to the specific judge with whom the child, who is the subject of the petition, is currently a ward of that court.

RULE JV 4. Compensation for Court-Appointed Attorneys [New]

1. Compensation for court-appointed attorneys for the legal representation of any party in any juvenile proceeding shall be as follows:
 - a. \$80 per hour for jury, non-jury trials and contested hearings in which formal evidence is presented;
 - b. \$60 per hour for time out-of-court and for in-court non-contested adjudication hearings, disposition hearings, disposition review and permanency hearings.
2. Compensation shall not exceed one thousand dollars (\$1,000) unless, upon a showing made for the necessity in an extraordinary case, the Chief Judge and the Presiding Judge of the 14th Judicial District determines that the compensation should exceed that amount.
3. The Chief Judge may make special assignments when necessary for good cause shown.

RULE JV 5. Uncontested and Contested Adoption and Guardianship Matters [New 10-30-2008]

The judge presiding over a deprived action shall also have subject matter jurisdiction and shall be assigned to hear and finalize the adoption or guardianship of the child that is the subject of the deprived action.

Last amended 12/06